

**REMARKS/ARGUMENTS**

A substitute specification, pursuant to 37 CFR 1.123(a) replacing the specification of August 25, 2000 is being submitted herewith. The substitute specification includes top margins that are believed to be large enough to accommodate staple holes. No new subject matter has been added to the substitute specification.

Claims 1-5 remain in the subject application. Claims 1 - 5 are amended, as recited hereinabove and are now believed to be in proper form overcoming the rejections under 35 U.S.C. 112.

Claims 1-5 have been rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Swanson (5,276,425). Claims 1-5 have been also rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Lebizay (5,038,343). As to Swanson, it is stated in the office action that "Swanson fails to disclose a function to select  $k'$  in such a way that  $m*Q(k'/m) \geq k$ , however, it would have been obvious to one of ordinary skill in the art at the time that the invention was made to apply a function to select  $k' = ' in order to have  $m$  switches in each stage into Swanson's system." Applicant respectfully, strongly, disagrees with this statement. Selecting  $k'$  such that  $m*Q(k'/m) \geq k$  to allow ..., as recited in the claimed invention is not at all suggested, hinted at or even remotely anticipated by any of the references cited in the office action and if such a concept was obvious, it would have been disclosed or anticipated and it was not. Applying a function, as stated in the office action, is not the same as inventing  $k'$  such that  $m*Q(k'/m) \geq k$  to allow ... Even if the latter is referred to as applying a function, this particular function is not disclosed, suggested or hinted at by any cited reference. In hindsight and with the benefit of the subject specification, it may now be It is believed that claims 1 - 5, as amended hereinabove are patentable over Swanson or Lebizay, however, such a standard is erroneously being applied as a basis of rejection. Reconsideration and allowance of claims 1-5 is hereby respectfully requested.$

Applicants submit that the subject application is now in condition for allowance and an early notice thereof is respectfully requested. Should any further amendment be required prior to passing the application to issue, the Examiner is respectfully invited to

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contact the undersigned by telephone at the number set out below.

Respectfully submitted,  
LAW OFFICES OF IMAM

Dated: August 6, 2004  
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I hereby certify that this correspondence with all attachments is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Mail Stop No Fee Amendment, Commissioner for Patents, P.O. Box 1450, Arlington VA 22313-1450 on August 5, 2004 by Erika Villafana.

August 6, 2004

  
Erika Villafana